

**Section 37 of the Resource Management Act 1991
Report on Waiver or Extension of Time Limits
Private Plan Change Applications**

Application number: PC090008 Holmes Block and
PC090009 Skellerup Block

Applicant: Selwyn Plantation Board Limited

Site address: 385 Burnham School Road and Dunns Crossing Road

Legal description of site: PC090008 - PT SEC 1 RES 309, PT RES 302, PT RES 1759, RS 3295 and PC090009 - PT LOT 4 PT RES 1342 PTS R S 31354 31356

Description of application:

PC090008 - private plan change application to rezone 92ha of land zoned rural (outer plains) to living 3. The application seeks to create 125 rural-residential allotments with associated servicing and development controls.

PC090009 - private plan change application to rezone 72.7ha of land zoned rural (outer plains) to living 3. The application seeks to create 100 rural-residential allotments with associated servicing and development controls.

Background

The requests were publicly notified together on the 14th August 2010. The initial closing date for submissions was the 10th September 2010. A decision pursuant to Section 37A of the RMA91 extended the closing date for receiving submissions by an additional 10 working days. This extended timeframe was deemed to be reasonable to enable interested parties affected by the recent earthquake event and ongoing civil defence emergency to consider the requests and lodge submissions. This decision amended the closing date to the 24th September 2010.

A total of 7 late submissions were received after the closing date. A summary of these late submissions, the date they were received and the number of working days that had passed since the closing date is provided as follows:

Late submission	Date Received	Working days (post close of submissions)
S31 J & G Burdis	30Sep10	4
S32 N Sole	29Sep10	3
S33 Dryden Trust	14Oct10	19
S34 J Baxter	2Nov10	26
S35 G & P Poole	2Nov10	26
S36 G & J Meadows	2Nov10	26

S37 P Tilling	2Nov10	26
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The late submissions received from J & G Burdis (S31), N Sole (S32) and Dryden Trust (S33) all outlined that the need to focus on earthquake recovery and associated business activities were the reasons why the submissions were received after the closing date.

The late submissions received from J Baxter (S34), G & J Poole (S35), G & J Meadows (S36) and P Tilling (S37) were a pro forma of the original submission of Mr B Paton (S14). Mr Paton confirmed that the reasons these submissions were received late was due to overseas commitments. No formal response to Council's correspondence seeking clarification of the reasons for the late submissions has been received from the submitters outlined above.

The applicant has confirmed in writing that they do not believe a waiver of any of the late submissions through an extension of time is warranted under the current set of circumstances. This advice has been provided on the basis that the original closing date was extended by two weeks in response to the earthquake event and ongoing recovery and that late submitters continue to have the ability register their interest by lodging further submissions.

Reasons why a waiver or extension of the time limits specified in the Act should be extended

It is considered necessary that a waiver be granted for receiving the late submissions from J & G Burdis (S32), N Sole (S32) and Dryden Trust (S33) on the grounds that the recent earthquakes and ongoing civil defence emergency resulted in these persons not being able to meet the stated deadline. The nature of the earthquake event is such that some people have been affected more directly than others. Correspondence from the above submitters identifies that they were significantly affected by the earthquake, to the extent that were unable to lodge a submission within the prescribed time limit.

The primacy given to earthquake recovery over the everyday statutory administrative tasks undertaken by District Council's has been recognised in the Canterbury Earthquake RMA Order 2010. This legislation enables Council's to waive standard timeframes under the RMA91 where earthquake response and recovery warrants an extension of time limits. These statutory timeframes are able to be extended by up to 6 months.

The 19 working days required to be waived to accept the above late submissions is considered to be reasonable and appropriate given the uniqueness of the recent earthquake event. Section 37A (a) enables a local authority to extend the timeframes by no more than double the specified timeframe without the approval of the applicant.

It is considered that there are insufficient grounds to waive the late submissions received from J Baxter (S34), G & P Poole (S35), G & J Meadows (S36) and P Tilling (S37). This is on the basis that: (a) the submissions are a pro forma of an original submission and do not raise any additional matters for consideration; (b) the late submissions were received after more than double the timeframe specified in the RMA91; (c) the applicant has not agreed to an extension of time; and (d) there have been no unique circumstances identified by the submitters as to why the submission deadline was not met (i.e. earthquake response and recovery).

How long will the waiver or extension apply for?

It is considered that 19 additional working days to enable the late submissions received from J & G Burdis (S32), N Sole (S32) and Dryden Trust (S33) to be accepted is appropriate for the reasons outlined above. This notice extends the closing date for receiving submissions from Friday 24th September to Thursday 14th October 2010.

There are considered to be insufficient grounds to grant an extension of time to the late submissions received from J Baxter (S34), G & P Poole (S35), G & J Meadows (S36) and P Tilling (S37) for the reasons outlined above. These submissions are considered to be void and should not be considered in the further substantive consideration of these requests. The late submitters continue to have an ability to register their interest in proceedings by lodging a further submission on original submissions received on Plan Change 8 and 9.

Will the interests of any person who may be directly affected by the extension or waiver be affected?

The applicant has identified that a waiver to grant an extension of time for any of the late submissions is not warranted under the current set of circumstances. However, it is considered that there are sufficient grounds to accept the late submissions from those parties who have identified that they were impacted upon significantly enough by the earthquake that it precluded them from meeting the submission deadline. The extension is less than double the timeframe prescribed in the RMA91 and the registration and continued consideration of these submissions has not resulted in any undue delay to the process or generated additional cost to the applicant.

The late submitters that have not been issued with a waiver of the extension of time are directly affected by the above decision as their submissions cannot be considered in the ongoing assessment of the plan change requests. However, these parties continue to have an ability to register their interest in the proceedings by lodging further submissions.

Will the interests of any community in achieving adequate assessment of the effects of the proposal be affected by the extension or waiver?

This decision is considered appropriate and necessary to recognise the impact the recent earthquake event has had on interested parties, while also ensuring that late submissions do not result in undue delay and added costs to the applicant.

Will unreasonable delay be avoided?

The 19 working days granted to the late submissions received from J & G Burdis (S32), N Sole (S32) and Dryden Trust (S33) is less than the period able to be extended as of right under Section 37 (no more than double the original 20 working day notification period). These late submissions had been received before the summary of submissions had been initiated and did not result in any delay to the process.

The remaining late submissions were received a significant time after the prescribed closing date without sufficient justification as to why they failed to meet the stated deadline.

Recommendation:

That for the above reasons the closing date under Clause 5 (3)(b) for receiving submission on Plan Changes 8 and 9 should be extended by a further 19 working days for the late submissions received from J & G Burdis (S32), N Sole (S32) and Dryden Trust (S33) pursuant to Sections 37 and 37A of the Resource Management Act 1991.

That for the above reasons an extension of time limit for receiving the late submissions under Clause 5 (3)(b) from J Baxter (S34), G & P Poole (S35), G & J Meadows (S36) and P Tilling (S37) should be declined.

**Report and decision
by:**

Craig Friedel – Policy Planner

Date: 11th November 2010

Decision: That the above recommendation be adopted.

Delegated Officer:

Tim Harris, Planning Manager

Date: 11th November 2010